

October 11, 2004
Case No.: AUS920010149US1 (9000/27)
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-- REMARKS --

Claims 1-28 remain under consideration and claims 29-30 have been added. No new matter has been added with the addition of claims 29-30. Applicants thank the Examiner for his courtesies in the telephonic interview of October 5, 2004 in which the Examiner agreed that Aguilar does not anticipate the claims. Pursuant to that interview, Applicants are entering their arguments into the record and adding claims 29-30 as discussed in the interview.

A. The Examiner rejected claims 1-28 as anticipated under 35 U.S.C. §102(e) by Aguilar

The §102(e) rejection of claims 1-28 is traversed. In order to maintain this §102(e) rejection, each and every element of the claimed invention must be disclosed in as great detail by the reference. Because the reference does not disclose each and every element, this rejection must fall.

At a minimum, Aguilar does not disclose "executing, at the target device, a boot delay response so that the target device does not time out," as claimed in independent claim 1. Similar limitations exist in independent claims 13 and 21.

Instead, Aguilar discloses randomly generating a delay interval in the event that a lack of a response to a prompt indicates that a user is not present. *See*, column 9, lines 20-26. Thus, Aguilar executes the boot delay only in response to lack of a response, rather than so that the target device does not time out. The Examiner's reliance on column 3, lines 11-15 is misplaced, as Aguilar at most discloses that scheduling a retrieval may include creating a randomly generated delay interval. Elsewhere, Aguilar discloses that retrieval of the boot code data is scheduled based upon the power status indicator, and that the schedule may include a random delay interval. *See*, e.g. column 2 line 61 to column 3 line 15.

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New claims 29-30 are patentable over Aguilar because Aguilar does not disclose, teach or suggest each and every limitation of the claims. At a minimum, Aguilar does not disclose "executing, at the target device, a boot delay response so that the target device does not time out," as claimed in independent claim 29.

Therefore, Applicants request allowance of independent claims 1, 13, 21, and 29 and claims 2-12, 14-20, 22-28 and 30 depending directly or indirectly from claims 1, 13, 21 or 29.

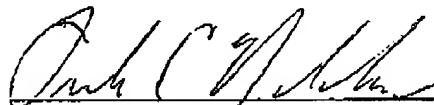
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CONCLUSION

The Applicants respectfully submit that claims 1-30 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully submitted,
STEVEN M. FRENCH, ET AL.



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicants

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113